



## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 22-092]

### **Requirement for NASA Recipients of Financial Assistance Awards to Obtain a Quotation from Small and/or Minority Businesses, Women's Business Enterprises and Labor Surplus Area Firms**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final notice of a new NASA term and condition.

**SUMMARY:** NASA has published, in final form in its *Grant and Cooperative Agreement Manual* (GCAM), a new term and condition regarding requirements for NASA recipients of financial assistance awards to obtain quotation from a small and/or minority business, women's business enterprise, or labor surplus area firm.

**FOR FURTHER INFORMATION CONTACT:** For any questions, comments, or concerns regarding this term and condition, please contact Christiane S. Diallo, email:

Christiane.diallo@nasa.gov, telephone (202) 358-5179.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background:**

On January 25, 2021, President Biden issued Executive Order (E.O.) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, outlining a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Given that advancing equity requires a systematic approach to embedding fairness in the decision-making process, the E.O. instructs agencies to recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

In response to E.O. 13985, NASA has taken a few actions, including implementing a new term and condition, that ensure entities funded by NASA are compliant with the procurement standards in the uniform guidance 2 CFR 200.321, *Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms*.

#### **Public Comments Discussion:**

NASA published a request for public comment in the Federal Register at 87 FR 10257 on February 23, 2022, on proposed implementation of a new term and condition that requires recipients of NASA financial assistance to obtain a quotation from a small and/or minority business, women's business enterprise, or labor surplus area firm when the acquisition of goods or services exceeds the simplified acquisition threshold. NASA received 36 comments from individual citizens, large and small businesses, colleges and universities, and other non-profit organizations. All comments were carefully reviewed and considered prior to finalizing the term and condition.

NASA received five comments in support of the term and condition where commenters commended NASA for their effort to diversify, promote equality and social responsibility associated with NASA, while inspiring future generations to pursue their passions in Science, Technology, Engineering and Math research. **Response:** NASA recognizes and supports the importance of diversity in its policies and programs and continues to work to identify and overcome barriers that hinder equitable, inclusive access by individuals or communities to the resources and opportunities that make all of NASA's work possible.

NASA received six comments/questions, including one duplicate, regarding applicability and waivers for businesses who may not be able to meet this new requirement. **Response:** The new term and condition applies to ALL NASA grant and cooperative agreement award recipients, regardless of the business types. Furthermore, NASA will not extend waivers for this requirement. Recipients are required to maintain documentation on file indicating why it is impossible to obtain a quote from a small/minority owned business, women's business enterprise, or labor surplus area firm. NASA received two comments/questions regarding partnership and contracting with NASA. **Response:** The

NASA Office of Small Business programs(<https://www.nasa.gov/osbp>) provides resource information on how to do business with NASA. Also, NASA's notice of funding opportunities are accessible on the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES) (<https://nspires.nasaprs.com/external/>) and [www.grants.gov](http://www.grants.gov) . NASA received 15 comments from commenters who are opposed to the implementation of the term and condition, citing that this new requirement would place an administrative burden on NASA grant recipients and an unfair advantage to certain business owners. **Response:** NASA's proposed term and condition aligns with 2 CFR 200.321, Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, which requires non-federal entities to take all necessary steps to ensure the use of minority businesses, women's business enterprises, and labor surplus area firms. Furthermore, 2 CFR 200.318 (i), General procurement standards, requires non-Federal entities "to maintain records sufficient to detail the history of their procurements. The records include but are not limited to the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price". NASA received four comments with proposed recommendations for ensuring that the new term and condition is effectively implemented. **Response:** NASA will consider the proposed recommendations as it develops its advanced monitoring plan, which is intended to provide an oversight of NASA grants as well as ensure recipients' compliance with NASA grant policy requirements. NASA received four comments from commenters expressing views outside of the proposed term and condition. **Response:** These comments are outside the scope of the Federal Register Notice and do not relate to the proposed term and condition.

The full text of the new term and condition is provided below:

Requirement to Obtain a Quotation from Small and/or Minority Businesses, Women's Business Enterprises or Labor Surplus Area Firms

Pursuant to the requirements in 2 CFR 200.321, Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, grant and cooperative agreement recipients shall, to the extent practicable, obtain at least one quotation in response to a recipient-

issued Request for Quotation (RFQ) from a small and/or minority business, women's business enterprise or labor surplus area firms when the acquisition of goods or services exceeds the simplified acquisition threshold (SAT) as defined in the Federal Acquisition Regulation (FAR) part 2.101, Definitions (currently the SAT is \$250,000). In the event that recipients are unable to obtain at least one quote from a small and/or minority business women's business enterprise or labor surplus area firm, a written justification indicating why this was not possible must be maintained in the recipient's records.

*End of Term and Condition*

*Implementation:*

NASA has implemented the new term and condition through revision of the NASA GCAM, which became effective on October 31, 2022, and is accessible at <https://www.nasa.gov/centers/nssc/grants>. The new term and condition will be applied to all new NASA awards and funding amendments to existing awards made on or after the effective date.

**Cheryl Parker,**

*Federal Register Liaison Officer.*

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